



Holme Roberts & Owen LLP  
*Attorneys at Law*

July 15, 2008

Utah Department of Natural Resources  
Division of Forestry, Fire and State Lands  
Attention Dave Grierson  
PO Box 145610  
1594 W. North Temple  
Salt Lake City, UT 84114-5610

Christopher Sands  
BIO-WEST, Inc,  
1063 West 1400 North  
Logan Utah 84321

Re: Bear Lake CMP Project

To Whom It May Concern:

Our family writes to provide our perspective regarding the difficult task the Division of Forestry, Fire and State Lands ("FFSL") has in managing a rare natural resource, Bear Lake. We believe we appreciate the daunting task facing the State as it manages the lake bottom below the high watermark and the competing interests of day users, property owners, commercial enterprise, recreational uses such as fisherman, boaters, swimmers, water-skiers, snowmobilers and beach combers.

We believe a balanced, fair and sound plan can be developed and we offer some thought on how to achieve this. We believe a plan needs to not only address the interests of the lake's constituency but it must take the fluctuating lake level into account as it does so. Human nature must be taken into account as current problems and anticipated ones are planned for.

The following is a response to the 20 issues identified in the Public Workshop Series 1 Response Form. Any other suggestions will be addressed following these responses.

A.1. Public Outreach and Education—a) Human Waste and Dog Waste Disposal - Many visitors to water-oriented recreation, not equipped with public restrooms, take care of their personal hygiene in the open ground. They need to be educated that Bear Lake is not the Uintahs nor Lake Powell and urinating and defecating in the lake or on its beaches is not permissible. The enhanced

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trash disposal to prevent the gulls from scavenging and the education to keep the beaches clean would be a good to do as well.

b) Public vs. Private Property — Educating the day users about respecting the private property rights of property owners, especially as water levels rise diminishing the exposed sovereign lands will be important.

Publications and abundant signage should be utilized as well as FFSL personnel engaging in educational conversation with the public.

A.2. Multi-Jurisdictional Responsibilities — Given that the lake can often only be accessed by passing through Rich County, Garden City and FFSL managed property and at least their jurisdiction, it is easy to paralyze law and regulation enforcement if clear guidelines and interactive protocols are not developed between these various governmental agencies..

On the other hand, an advantageous synergy could result if the offices of the various levels of government are clear about responsibilities and welcome alerts from the other agencies about problems that need to be addressed.

At times, resources of the appropriate agency will be inadequate given a specific problem. A cross-deputization program could be a big plus. As we learned, since cities and counties developed the legal ability to continue pursuit of criminals and violators beyond their normal jurisdiction, many problems that formerly escaped correction now are routinely resolved.

Similarly, coordination between governing bodies of the Bear Lake Valley needs to occur with respect to weed and mosquito control. . In many portions of the lake, the exposed lake bed becomes a serious breeding ground for mosquitoes. A piecemeal approach to spraying will be ineffective.

B.1. Water Quality — As use of the lake and watershed increases, adequate garbage disposal and restrooms are essential. Building codes and enforcement thereof by local officials must be followed to ensure water used by all of us is properly treated before it finds its way into the lake.

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Unless empirical evidence is produced showing no impact on the ecology of the lake, a pump and store hydro-power project must not be allowed. We have studied it and found no such evidence, so we are firmly behind the Governor's decision to block such projects.

B.2. Water Use and Fluctuation — a) The lake is the engine that drives the region's economy. Adequate access to it is a must. The hours it takes waiting in line to load and unload boats is very frustrating, wasteful and dangerous as people are backed up onto Highway 89. We need more boat launching options.

b) More Marinas — Either build a second marina or add to the existing one. It would provide more launching space and more docking space which would alleviate the backlog on weekends and holidays. And it would also remove delays in launching and loading. The multiyear wait to obtain a slip permit is proof enough of the demand. The wait list also indicates more money could be raised to construct additional slips by raising the price, if necessary. We support the reservation of a certain number of slips for daily or weekly rental to support vacationers who are not able to take advantage of a season-long permit.

c) Water Fluctuations — While the FFSL can't control water levels, the plan should call for contingency plans as the water level rises. As will be noted in the discussion below, we recommend that designation of several large sections of beach for daily beach access be utilized. This requires contingency plans depending on lake levels as some such beach spots will be covered in water as the lake level rises sooner than others.

Moreover, as such designated sections become smaller between lake and private property owner's property, we recommend that those sections close down for day use from motorized land vehicles and only be accessed by boaters to change skiers or equipment and other boating activities. This is because the 100 foot buffer zone parking restriction from the lake currently in force makes sense from a safety point of view. As that buffer zone moves up toward the high water mark, cars and trucks will become near to or on private property. The potential for interpersonal conflict is likely. We recommend that the first

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areas to be closed to highway motor vehicle traffic and parking would be those where the beach between water and private owner property is 300 feet or less. In the areas where there is no private property between the lake and the highway should be kept open even in high water situations but designated parking spots should be created to avoid pedestrian and vehicular interaction whenever the 100 foot rule cannot be utilized due to lack of beach.

d) Designation for certain water activities on weekends and holidays should be established. The confluence of personal water craft, boaters and water-skiers in front of Ideal Beach and Blue Water Resorts frequently results in serious bodily injury. Just last week, two personal watercraft carrying four middle-aged women collided, resulting in a broken leg, a broken wrist and a punctured lung. Unfortunately, this is not an uncommon occurrence.

On weekends and holidays, we would suggest separate designated areas for swimmers, boaters and water-skiers and lastly personal watercraft. Also a more visible presence of Park Rangers on the water to educate and discipline the most frequent safety abusers, the renters of personal watercraft, who ignore the rules of safe use.

Too often ski boats, waiting for a skier to ready themselves, have to abort their start because a personal watercraft cuts them off. We see reckless driving of personal water craft on a daily basis. It is fortunate that more serious injuries and loss of life don't occur.

**C.1. Recreational Development –**

(a) See 2.B.2 above for a discussion regarding enhanced marina facilities.

(b) Prior failed ventures such as dinner cruises, seal plane rides, lakeside fast food restaurants, may now be feasible with the aging of the population and the significantly increased residential and commercial development. Perhaps advertising for request for such proposals would enable future development.

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(c) Published information regarding winter use of the lake, particularly regarding thickness of the ice and the posting of unsafe areas may draw less experienced people to the lake during the winter months.

C.2. Recreation Facilities—

a) More restrooms, concession areas near the beaches and more boat launching and boat slip capacity would significantly enhance the recreational experience. See discussion in B.2.b) above.

C.3. Recreational Use Conflicts—

a) See conflicts discussion regarding various recreational water-user's use in Section B.2.d) above.

Better enforcement of the speed at which ATV's, golf carts and full size highway vehicles is needed. Excessive speed is a frequent occurrence.

C.4. Collection and Use of Fees—

a) See discussion in B.2.b) above regarding boat slips.

b) Consider imposing beach access fees to pay for enhanced restroom and picnic areas for day users. As well as stepped up enforcement of safety and beach rules.

C.5. Scenic Resources—

(a) As improved beach facilities occur, they should be of the quality and design to blend into the surroundings and be well-maintained functionally and aesthetically.

(b) The color and clarity of the lake is unique in Utah and provides much of the draw to the area. It must be maintained and any development that jeopardizes either must not occur.

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D.1. Education on what can be done by property owners would be helpful. To say property owners cannot do anything to disturb the exposed lake bottom and then have the FFSL do little, if anything, to contain the weeds is intolerable.

D.2 Lake Fishery — Continued development of fish habitat should be done to appeal to a wider range of recreational users who have a much longer season than does waterskiing and the riding of personal watercraft.

D.3 and 4. We have no expertise or suggestions regarding shoreline erosions or vegetation management.

D.5. Pest Control. If the FFSL is going to leave lake bed vegetation and swamps to develop, it must maintain an effective mosquito abatement program. We can ill afford a frequent encounters with the West Nile Virus carried by mosquitoes.

E.1. Beach Access—

a) See discussion regarding designation of beach areas in Sections B.2.c) and d).

E.2. Law Enforcement (see A.2 above). More law enforcement personnel on sovereign land is needed.

E.3. Signage — Responsible, well-intentioned people get stuck hauling trailers and boats in tight areas of private ownership because they get lost trying to find public beaches and facilities. If the FFSL is going to encourage day use of beach in front of private property by temporary visitors, it must find a way to work with property owners and city and county officials to provide adequate signage that is easy to see and understand. Clear and plentiful signs are needed directing beach traffic access and others designating private lanes to avoid this problem.

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E.4. Special Permitting — We have had a boat launch and portable dock in use during the high water years since 1969. We respectfully request the process be reopened to enable us to keep permits in force.

E.5. Boundary Settlements — Because the historical data is so suspect and speculative regarding the high water mark at statehood that individual negotiation seems to be the best alternative.

E.6. Minerals Leasing — Any extensive mineral exploration or development should not occur. The combined value of all commercial and personal development in the Bear Lake valley dwarfs any single minerals extraction operation that is at all foreseeable.

Industrial Use — Due to the nature of the economy driven by recreation, industrial development should not be located on or near the lake nor in any way be allowed to impact the ecosystem of Bear Lake.

Sincerely,

A handwritten signature in black ink that reads "Mark K. Buchi". The signature is written in a cursive, slightly slanted style.

Mark K. Buchi